HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.No.15656 of 1997

Dated 15th Day of March, 2007

Between:

Kalyani and two others .. Petitioners

And

The District Collector,
Guntur District
and two others ..
Respondents

O R D E R:

This writ petition is filed seeking a mandamus to declare the action of the respondents in issuing Notification dated 15.12.1994 under Section 4(1) of the Land Acquisition Act, as arbitrary and illegal, and consequently direct the respondents not to acquire the petitioners' lands.

The brief facts of the case are that the 2nd and 3rd petitioners own an extent of Ac.1.08 cents of land and the 1st petitioner owns an extent of Ac.0.50 cents of land in S.No.675/1 of Iylavaram village and they are in possession and enjoyment of those lands. Now, their grievance is that the respondents, without following due process of law, issued Notification under Section 4(1) of the Land Acquisition Act proposing to acquire total extent of Ac.4.16 cents of land situated in Addepalli village including the petitioners' land.

Heard the learned counsel for the both the parties.

A detailed counter affidavit is filed wherein it is stated that the Revenue Divisional Officer, Tenali was appointed under Section 5-A of the Act to perform the functions of the Collector. Notices inviting objections from the interested persons to the proposed acquisition were issued on 20.3.1995, but no objections were received from anybody within the stipulated time. The draft declaration was published in two local news papers namely Krishna Patrika and Prajasakthi daily.

Having regard to the dispute that whether notices were served

on the respondents or not in respect of holding of enquiry under Section 5-A of the Act, this Court directed the Government Pleader for Land Acquisition to produce the record, and accordingly, the record is produced. As per the note of the record, though it appears that the notices were served on the petitioners, there are no acknowledgements establishing the service of notices. Further, from a perusal of the counter averments and the record, it is clear that the Notification under Section 4(1) of the Act was published in Krishna Patrika and Prajasakthi Daily. The very purpose of the amendment to the Act that the notice shall be published in two local new papers is to see that the notification is given wide publicity. Hence, it is necessary for the authorities to see that the notification is published in some local newspapers, which have got wide publicity. In my considered view, the newspapers, i.e. Krishna Patrika and Prajasakthi Daily in which the respondents have chosen to make the publication are not in wide circulation and the authorities have not followed the procedure prescribed under law.

Hence, this Court is of the view that the contention put forth by the learned counsel for the petitioners that the notices under Section 5-A of the Act are not served on the petitioners is to be upheld, and accordingly, the Notification under Section 4(1) of the Act published in Krishna Patrika and Prajasakthi, and the consequential draft declaration published under Section 6 of Act and award enquiry under Section 11 of the Act are liable to be set aside.

In the result, the writ petition is allowed quashing the Notification issued under Section 4(1) of the Act. However, if the authorities so choose that the lands belonging to the petitioners are still required for a public purpose i.e. for construction of houses to weaker sections, they are at liberty to issue a fresh Notification under Section 4(1) of the Act by following the due procedure of law. No costs.

_____

15.03.2007

bcj